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- and -

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*Counsel to Virginia Conservation Legacy Fund, Inc.
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.

BLACK DIAMOND COMMERCIAL FINANCE, LLC,

Plaintiff,

v.

VIRGINIA CONSERVATION LEGACY FUND, INC. and
ERP COMPLIANT FUELS, LLC,

Defendants.

Chapter 11

Case No. 15-32450 (KLP)

Jointly Administered

Adv. Proc. No. 16-03105 (KLP)

VIRGINIA CONSERVATION LEGACY FUND, INC. and
ERP COMPLIANT FUELS, LLC,

Counterclaim-Plaintiffs,

v.

BLACK DIAMOND COMMERCIAL FINANCE, LLC,

Counterclaim-Defendant.

**VCLF’S MOTION FOR AN EXTENSION OF TIME TO FILE PROPOSED FINDINGS
OF FACT AND CONCLUSIONS OF LAW**

Defendants/Counterclaim-Plaintiffs Virginia Conservation Legacy Fund, Inc. and ERP Compliant Fuels, LLC (collectively, “VCLF”) respectfully move this Court to grant a one-week extension of the deadline for VCLF (and Black Diamond as defined below) to file its Proposed Findings of Fact and Conclusions of Law from the original deadline of July 20, 2018 to July 27, 2018.

On June 13, 2018, after effectively eight trial days, the Court set a deadline for VCLF and Plaintiff/Counterclaim-Defendant Black Diamond Commercial Finance, LLC (“Black Diamond”) to each file their respective Proposed Findings of Fact and Conclusions of Law by Friday, July 20, 2018. *See* July 13, 2018 Trial Tr. 239:8–10.

On July 18, 2018, VCLF’s counsel contacted the counsel for Plaintiff/Counterclaim-Defendant Black Diamond Commercial Finance, LLC (“Black Diamond”) to request a brief extension of the July 20th deadline as a courtesy. The requested extension would apply equally to both Black Diamond and VCLF. VCLF explained that commitments on other matters (which were not known on June 13, 2018, and include an objection to a more than \$300 million claim in the Westinghouse case) as well as out-of-the-country commitments, reduced VCLF’s and its

attorneys' available time, although work on VCLF's proposed Findings of Fact and Conclusions of Law as well as drafts were produced and turned during this time period. The record in this adversary proceeding is not only voluminous but it is detailed and developed involving hundreds of exhibits, hours of deposition testimony, and days of trial testimony. VCLF notes (and noted to Black Diamond) that a one-week extension would not unduly advantage VCLF, may benefit Black Diamond, and would not delay any further oral argument in this matter.

On July 19, 2018, in a conversation with the Court's clerk, VCLF was instructed to submit an interim order extending the filing deadline to the end of the day on Monday, July 23, 2018, which it has done. VCLF was also instructed to file a motion requesting a further extension if it and Black Diamond could not agree to an extension beyond Monday, July 23, 2018.

On July 19, 2018, Black Diamond's counsel refused to consent to any extension of the filing deadline beyond July 23, 2018. This motion has followed.

There will be no prejudice to any party if this request for a short extension is granted.

MEMORANDUM REQUIREMENT

Local Bankruptcy Rule 9013-1(G) requires a memorandum with every motion except those listed in subparagraph (2). A memorandum need not accompany a motion that seeks a continuance pursuant to subparagraph (2)(e).

WHEREFORE, for the reasons above, VCLF respectfully requests the Court extend the deadline for VCLF to file its Proposed Findings of Fact and Conclusions of Law to Friday, July 27, 2018. A proposed order granting this relief is attached as Exhibit A and has been uploaded to BOPS.

Respectfully submitted,

Dated: July 19, 2018
McLean, Virginia

/s/ Patrick J. Potter
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CERTIFICATE OF SERVICE

I hereby certify that, on July 19, 2018, I filed the foregoing *Motion for an Extension of Time to File Proposed Findings of Fact and Conclusions of Law* by uploading it to this Court's CM/ECF system, which will send notification of such filing to all CM/ECF participants, and that I served a copy on opposing counsel of record in this adversary proceeding by email.

/s/ Patrick J. Potter

Patrick J. Potter